

# KENYA

## CIVICUS MONITOR WATCHLIST

### OVERVIEW OF RECENT RESTRICTIONS TO CIVIC FREEDOMS





## INTRODUCTION

Kenya's rating remained '[obstructed](#)' in the People Power Under Attack [Report](#) by the CIVICUS Monitor in December 2021.

Although a vibrant and engaged civil society sector exists in the country, systemic challenges to the enabling environment continue to throttle the exercise of civic freedoms and undermine civic space. Since Jubilee, the ruling party, got into government in 2013, CSOs have faced major restrictions to their work through policies aimed at muzzling CSOs, including the infamous massive CSO [deregistration](#) exercises undertaken in 2014 and 2015 by the NGO Coordination Board. Since then, civic space in the country has been characterised by systematic repression of protests and protesters, attacks against journalists and the LGBTQI+ community, and sporadic deregistration and vilification campaigns targeting specific CSOs.

Ahead of the last elections in 2017, the NGO Board once again [embarked](#) on a deregistration exercise against vocal NGOs such as the Kenya Human Rights Commission and the [African Centre for Open Governance](#) (AfriCOG) because of their work advocating for transparent electoral processes. Journalists and media outlets also [faced](#) hostilities and operated in an increasingly hostile environment as political tensions rose prior to the 2017 elections, with journalists reporting threats and attacks in public and by the government.

Now, as the country gears up for general elections in August 2022, the CIVICUS Monitor continues to document civic space restrictions. The unabating violations against peaceful protests, freedom of the media and expression, and increased attacks against the freedom of association for the LGBTQI+ community, in a context of an increased risk of looming civic space restrictions as experienced in previous election cycles, see Kenya added to the Watch List ahead of the elections.

## VIOLENT REPRESSION OF PEACEFUL PROTESTS

As has been documented severally on the CIVICUS Monitor, excessive use of force has characterised the Kenyan authorities' systemic response to protests in the country, despite the constitutional guarantee of the right to peaceful assembly. The police have continued to brutally disperse peaceful protests using lethal weapons such as teargas and rubber bullets, using batons to brutally assault protesters, and subjecting protesters to arbitrary and illegal detentions.

In mid-January 2022, striking inmates at the Kamiti Maximum Prison in Nairobi County were badly [beaten](#) by officers after they held a protest over the lack of food and restriction of movement in the facility. The protests erupted after the prison began rationing food to the inmates as a punitive measure after three terrorism convicts escaped from the facility, sparking public outrage. According to some of the inmates, they were going up to 24 hours without food, while some of them were placed in complete isolation. On 7th April 2022, police officers arrested and [beat](#) human rights defender Julius Kamau for protesting the high cost of living outside the

## ABOUT THE CIVICUS MONITOR

The [CIVICUS Monitor](#), an online platform that tracks threats to civil society in countries across the globe, rates civic space – the space for civil society – in Kenya as "**Obstructed**".

The data provides the basis for civic space ratings, which are based on up-to-date information and indicators on the state of freedom of association, peaceful assembly and expression. Countries can be rated as:

CLOSED

REPRESSED

OBSTRUCTED

NARROWED

OPEN



Treasury building. Kamau stood holding a banner reading “lower food prices” as part of the “NjaaRevolution” (translated to ‘hunger revolution’) protests that began online. Kenyan citizens have been demonstrating against the high cost of living using the hashtag #NjaaRevolution. Similarly, four other protestors, namely Minoo Kya, Clinton Ojiambo, Nahashon Macharia and Anthony Kanyiri, were [arrested](#) on 9th April 2022 for protesting the high cost of living. The protestors were [detained](#) at Mwiki police station in Nairobi. In a related protest, police officers [dispersed](#) peaceful protests and used batons to scare protestors in another “NjaaRevolution” protest held in Mombasa on 19th April 2022.

Notably, similar incidents of brutal repression of peaceful protests were documented in all the civic space updates published in 2021 on the [Kenya country page](#) of the CIVICUS Monitor.

As elections draw near, the culture of brutal repression of protests by authorities remains worrisome and tells of the expected government response to any anticipated election-related protests this year.

## ATTACKS ON JOURNALISTS

Incidents of attacks on journalists have notably increased in the country, as documented on the Monitor over the last few years. As the country heads into this year’s elections, this trend continues to be evident as a key violation of civic space. In several instances, national and county government officials and their staff have been implicated in the attacks.

On 6th January 2022, a Citizen TV journalist, Martin Kosgey, was [threatened](#) via text message after airing a story implicating a governor's bodyguard in a murder case. Kosgey also reported that he had received intelligence that there was a plan to harm him over the story. On 25th November 2021, it was [reported](#) that a decomposed body found on 26th October in Naivasha, Nakuru County, had been confirmed to be that of veteran health and science journalist Gatonye Gathura. Prior to his death, Gathura was investigating land and health issues, but the motive for the murder was unknown. In a separate incident, also on 25th November 2021, unknown assailants [attacked](#) a Standard Group journalist, Samson Wire, after he covered a story about a land ownership dispute in Parklands, Nairobi. A private developer was allegedly responsible for hiring the unknown assailants, and according to bystanders, the assailants, who carried machetes, destroyed Wire's camera and threatened to harm him more if he did not leave.

Since the 1990s, sexual and gender based violence (SGBV) has been a [recurring](#) and vicious element of Kenyan elections. Ahead of the August 2022 elections, the International Federation for Human Rights (FIDH) and the Kenya Human Rights Commission (KHRC) [published](#) a report exploring trends of SGBV against women during election seasons. It revealed patterns of election related SGBV against women in Kenya, including gang rape by security agents. Additionally, it demonstrated that perpetrators of such acts continued to enjoy impunity. Notably, while SGBV tends to increase during election periods, it continues to affect all women on a day-to-day basis, including journalists. According to global media research encompassing 20 countries, Kenyan journalists report the [highest](#) rates of sexual harassment in newsrooms. The report indicated that approximately 65% of female journalists faced physical or verbal harassment.

## RESTRICTIONS ON MEDIA FREEDOM

In what has been [seen](#) by some as an effort to extend the government’s control over the media, president Uhuru Kenyatta recently [appointed](#) a new head of the Communications Authority of Kenya, thereby seemingly consolidating the ruling party’s power over a strategically important body that is meant to be non-partisan. The potential political interference undermines the body’s mandate to serve as a watchdog for public media and to



monitor the state news agency's operations. In principle, the authority has the responsibility to ensure fair and impartial reporting around the upcoming elections. However, there is a risk that it would be used to diminish the space for independent media.

On 22nd December 2021, the newly appointed Director General of the Communications Authority of Kenya, Ezra Chiloba, [announced](#) that they had begun revoking the licences of [128 broadcasters](#) for allegedly failing to comply with their licencing conditions, as per the Kenya Information and Communications Act, 1998. In his statement announcing the measures, Chiloba stated that it was illegal to provide broadcasting services without a licence issued by the authority and warned the radio stations to comply within 30 days or risk having their frequencies shut down.

## **RESTRICTIONS AND ATTACKS ON THE RIGHT TO ASSOCIATION**

On 27th March 2022, Twitter [suspended](#) 22 accounts belonging to human rights defenders who took part in the #NjaaRevolution campaign on the platform. Twitter's suspension notice claimed that some of these accounts were suspended because their users appeared to be acting suspiciously. The platform failed to explain to users what the word "suspicious" behaviour meant or what behaviour was considered suspicious. Twitter did not give a specific reason for accounts that were permanently suspended, instead giving a generic justification of "violating Twitter Rules." According to article 19, the suspension of these accounts amounts to [censorship](#) of civic actors at a crucial time leading up to the general elections in August 2022.

LGBTQI+ rights have also come under repeated attack. In perhaps the most retrogressive refusal by the state to affirm and protect the rights of a section of its citizens, the LGBTQI+ community in Kenya face brutal attacks from non-state actors and an equally brutal repression from state actors through restrictive policies. The latest restrictions by the state include ongoing protracted efforts by the Non-Governmental Organisation Coordination Board to appeal the High Court and Supreme Court's judgments allowing the registration of the National Gay and Lesbian Human Rights Commission as an NGO. Failure by security agencies to fully investigate rising cases of brutal and fatal attacks against members of the LGBTQI+ community also remains of great concern as seen below.

In a very unfortunate incident by unknown assailants, on 20th April 2022, LGBTQI+ member Sheila Adhiambo Lumumba was found [dead](#) after failing to report for work. According to reports, a group of six unknown men reportedly attacked, raped and killed Sheila. Human rights activists [reported](#) a pattern of attacks on the lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) community in Kenya.

State actors on the other hand have gone to great lengths to use restrictive laws and policies to undermine the freedom of association of the LGBTQI+ community. On 23rd November 2021, the Non-Governmental Organisation Coordination Board [urged](#) the Supreme Court to reject the registration of the National Gay and Lesbian Human Rights Commission as an NGO on the basis that it would "erode family values" and "harm society." The NGO Coordination Board requested the Supreme Court to overturn the decision made by the Court of Appeal, which upheld a 2015 High Court decision compelling it to register the National Gay and Lesbian Human Rights Commission. In a separate incident by a state actor, on 14th February 2022, the Kenya Film Classification Board (KFCB) [banned](#) an Indian film for "going against Kenya's culture". According to KFCB, the film titled *Baadhi* would remain restricted in the country for promoting same sex marriage, which they argued was against Kenya's constitution. The Board had previously banned another film titled *I am Samuel*, a [documentary](#) exploring an intimate relationship between two men and affirming the lives of LGBTQI+ Kenyans, in September 2021.



## RECOMMENDATIONS

### To the Kenyan government:

- Ensure an enabling environment for CSOs, media, journalists and protesters, particularly ahead of the upcoming general elections.
- Immediately and unconditionally release all those who have been arbitrarily detained for exercising their right to peacefully protest and drop all the spurious charges made against peaceful protesters.
- Refrain from the use of excessive force, physical violence and detention of protesters and journalists.
- Security officials who use excessive force towards protesters must be effectively investigated and held accountable.
- Stop the unwarranted targeting, intimidation and shutting down of media outlets.

### To the International Community:

- Call for urgent and immediate action to address fundamental rights violations of the right to peaceful assembly, expression and the rights of the LGBTQI+ community.